IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 20667 of 2007(I)

PETITIONER:

1. MUSHTHAQUE ANWAR, S/O. MOHAMMED SHAH HAJI, AGED 30, MORAYOOR POST, MALAPPURAM DISTRICT.

2. M.C.NOUFAL, S/O. MOHAMMED SHAH HAJI, AGED 24, IN -DO- -DO-

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE, GOVERNMENT OF KERALA, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, WAYANAD, KALPETTA NORTH POST, WAYANAD.

3. THE DEPUTY COLLECTOR (L.R.), COLLECTORATE, KALPETTA NORTH POST, WAYANAD.

4. THE TAHSILDAR, TALUK OFFICE, SULTHANBATHERY, WAYANAD DISTRICT.

5. THE VILLAGE OFFICER, SULTHANBATHERY VILLAGE OFFICE, WAYANAD DISTRICT.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.20667 of 2007

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Dated this the 5th day of July, 2007

J U D G M E N T

The petitioners apprehend eviction from the petitioners' properties on the ground that part of the petitioners' property comprises of Government land. The apprehension arises from the fact that on 24.5.2007 the respondents demolished the fencing to the petitioners' property and although the petitioners submitted documents in support of their case, by Ext.P16, the Tahsildar concerned, had even after referring to Ext.P15 and other documents said that further steps would be taken without further notice.

2. I have heard the learned Government Pleader also.

3. Ordinarily I would not have entertained such apprehensions. However, in view of Ext.P16 notice and noting the fact that the petitioners allege demolition of the fencing, I feel that some orders are called for in this writ petition. It is

settled law that the petitioners can be evicted from the property only after a hearing and consideration of the contentions of the petitioners on the basis of the evidence they have produced. In the above circumstances, I dispose of this writ petition with the following directions:

The 4th respondent shall take further proceedings pursuant to Ext.P16 only after affording an opportunity of being heard to the petitioners which shall include opportunity to adduce evidence and passing a speaking order meeting the contentions of the petitioners on the basis of the evidence produced by them. Before evicting the petitioners, the orders passed as above shall be communicated to the petitioners also. As regards the claim of the petitioners for compensation, it would be open to the petitioners to approach the appropriate civil court.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE